

REMARKS

Claims 1-9 remain in this application. Claim 1 has been amended. Claims 10-13 have been cancelled without prejudice to the filing of a divisional application. Applicants respectfully request review and reconsideration of the application.

The Examiner required restriction to one of two groups of claims (group I is Claims 1-9, group II is Claims 10-13) in the present application. The Examiner has requested an affirmation of the provisional election without traverse to prosecute the invention of group I (Claims 1-9) made during a telephone conversation on June 7, 2004. Applicants hereby affirm this provisional election and have now cancelled Claims 10-13 (group II).

The Examiner has also indicated that the application contains claims directed to six patentably distinct species of the claimed invention. The Examiner has requested an affirmation of the provisional election without traverse to prosecute species 1, i.e., the attachment device of Figures 2-5, as indicated during a telephone conversation on June 9, 2000. Applicants hereby affirm the election without traverse to prosecute the invention of species 1, on which Claims 1, 4, and 9 are readable. As the Examiner indicated, Claim 1 is generic. Based on the discussion that follows, Applicants submit that Claim 1 is allowable. Therefore, Claims 2, 3, and 5-8, which depend from generic Claim 1, should be considered by Examiner.

Before addressing the merits of the rejections based on prior art, the following brief description of the invention is provided. The present invention is directed to a bottle attachment device for securing a container, such as a bottle of automotive detailing material, to an exterior surface of a vehicle. The bottle attachment device comprises a bottle holder, a magnet connected to the bottle holder, and a cushion connected to the magnet wherein at least a portion of the cushion is positioned between the magnet and the exterior surface of the vehicle. The bottle attachment device of the present invention allows auto detailers to removably secure a bottle of detailing material

to the exterior surface of a vehicle while reducing the risk of the bottle being lost, kicked over, or unintentionally squeezed. The bottle attachment device of the present invention also reduces the risk that the vehicle's exterior surface will be scratched by the bottle.

The Examiner rejected Claims 1 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Sorth in view of Wemyss. The Examiner rejected Claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Sorth in view of Wemyss, and further in view of Jasmagy, Jr. Applicants respectfully traverse these rejections and submit that the rejections of Claim 1 and dependant claims based therefrom should be withdrawn.

Sorth discloses a magnetic cup holder having a rotatably engaged top part and a bottom part whose mating surfaces are angled such that the angle of the top part relative to the bottom part may be changed by rotating the top part relative to the bottom part. The Sorth device may be placed on an uneven surface and leveled by rotating the top part of the holder relative to the bottom part. The Sorth device also discloses the use of a magnet for attaching the holder to a metal surface. Sorth, however, fails to disclose a cushion to be connected to the magnet. Sorth is addressed to a cup holder device to be attached to metallic surfaces on the interior of a vehicle where concerns about marring or scratching the surfaces are not as great as they are for the exterior surfaces.

Wemyss discloses a magnetic coupler in which an object such as a holding device is magnetically coupled to a magnetic base. The Wemyss magnetic coupler comprises a magnetic base affixed to a nonferrous surface, such as the dashboard of an automobile, and a holding device including a ferrous disk configured to magnetically couple with the magnetic base. As the Examiner indicates, Wemyss discloses the use of a boot surrounding the magnetic base. However, no portion of the boot disclosed in Wemyss is positioned between the magnetic base and a surface of the vehicle. Rather, a layer of adhesive, included in the magnet, is positioned between the magnet and an interior surface of a vehicle such as an automobile dashboard to permanently affix the

magnet to the surface. Unlike the cushion of the attachment device of the present invention, which facilitates removal and reattachment of the attachment device to an exterior surface of a vehicle without marring or scratching that surface, the adhesive disclosed in Wemyss creates a substantially permanent connection of the Wemyss magnet to a nonferrous interior surface of a vehicle. If the Wemyss magnetic coupler were removed, the underlying interior surface of the vehicle would likely be marred and would at least require cleaning or scraping to remove adhesive residue.

Regarding the Examiner's rejection of Claims 1 and 9, in view of the foregoing discussion, Applicants assert that the Examiner has not established a *prima facie* case of obviousness. First, it would not be obvious to combine the disclosures of Wemyss and Sorth. In both Wemyss and Sorth, there is no suggestion or disclosure to combine the references. Further, Wemyss and Sorth are addressed to vastly different problems such that their combination would not be obvious. The adhesive layer disclosed by Wemyss is necessary because of the lack of magnetic attractive forces between the Wemyss magnet and a non-ferrous surface on a vehicle's interior. Therefore, it would not be obvious to combine these elements with the elements of the Sorth disclosure, which is addressed to a magnet that attaches to a ferrous surface of a vehicle's interior.

Further, Applicants assert that even if the combination of Sorth and Wemyss were appropriate, the combination of these references does not disclose all of the limitations of Claim 1 as would be required for the Examiner's *prima facie* case of obviousness. Specifically, neither of the cited references discloses or suggests a cushion "wherein at least a portion of the cushion is positioned between the magnet and the exterior surface of the vehicle when the magnet is secured to the exterior surface of the vehicle and wherein the cushion is comprised of a material that substantially resists scratching the exterior surface of the vehicle." Rather, Wemyss teaches away from the use of a cushion at all by disclosing an adhesive layer, positioned between the magnet and the vehicle's surface, to permanently affix the magnet to a vehicle's interior surface. In contrast to the cushion of the present invention, the Wemyss adhesive would be likely

to scratch or mar the vehicle's surface. Therefore, Applicants respectfully submit that Claim 1 is allowable. Claim 9 is allowable as depending from an allowable base claim.

Regarding the Examiner's rejection of Claim 4, the Applicants assert that Claim 4 is allowable for at least the reasons noted above regarding Claim 1 as Jasmagy, the additional reference cited in the Examiner's rejection of Claim 4, does not disclose a cushion.

In view of the foregoing, the Applicants respectfully submit that Claims 1, 4, and 9 are in condition for allowance. Claims 2, 3, and 5-8 are allowable as depending from an allowable base claim. Reconsideration and withdrawal of the rejections is respectfully requested, and a timely Notice of Allowability is solicited. To the extent it would be helpful to placing this application in condition for allowance, the Applicants encourage the Examiner to contact the undersigned counsel and conduct a telephonic interview.

Applicants petition the Commissioner for a one-month extension of time, extending to October 18, 2004 (the first business day following October 16, 2004), the period for response to the Office Action dated June 16, 2004. The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0639.

Respectfully submitted,



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